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In re the Matter of:) Case No.: 07-093
)
State of New Hampshire Banking) Adjudicative Order
) RE: Petitioner's January 3, 2008 Post
Department,) Hearing Motion
)
Petitioner,)
)
and)
)
Mortgages Unlimited Corporation,)
)
Respondent)
)

Procedural History

1. New Hampshire Bank Commissioner Peter Hildreth (hereinafter "Commissioner Hildreth") issued an Order to Show Cause with Immediate Suspension on April 26, 2007.
2. Commissioner Hildreth issued a Notice of Hearing in this matter on April 26, 2007. The allegation stated in the notice is the failure to post a continuous surety bond.
3. On April 27, 2007 Commissioner Hildreth issued an Amended Order lifting the suspension of Respondent's license, but all other provisions of the Order to Show Cause remained in effect.
4. Commissioner Hildreth issued an Amended Notice of Hearing on June 14, 2007. Allegations stated in the Amended Notice of Hearing included failure to post a continuous surety bond in violation of RSA 397-A:5, failure to respond to Department inquiries relating to the surety bond in violation of RSA 397-A:13, failure to file financial statements that

1 satisfied RSA 397-A:13, and failure to respond to Department inquiries
2 relating to the financial statements in violation of RSA 397-A:13.

3 5. Commissioner Hildreth issued an Amended Notice of Hearing on July 10,
4 2007. Allegations stated in the Amended Notice of Hearing included
5 failure to post a continuous surety bond in violation of RSA 397-A:5,
6 failure to respond to Department inquiries relating to the surety bond
7 in violation of RSA 397-A:13, failure to file financial statements that
8 satisfied RSA 397-A:13, and failure to respond to Department inquiries
9 relating to the financial statements in violation of RSA 397-A:13.

10 6. The New Hampshire Banking Department received a letter dated July 30,
11 2007 from the Carl E. Mara and Charles Rheinhardt of Mortgages
12 Unlimited Corporation. The letter indicated "no contest" to the
13 charges brought forth by the New Hampshire Banking Department.

14 7. Presiding Officer Maryam Torben Desfosses conducted a public hearing in
15 the matter on July 24, 2008.

16 8. Stipulations submitted by Banking Department Staff Attorney James
17 Shepard and Mortgages Unlimited Vice President Carl E. Mata on July 24,
18 2008 clarified and summarized the issues attested to in the hearing.

19 9. Commissioner Hildreth issued a decision pursuant to the recommendation
20 of Presiding Officer Maryam Torben Desfosses on August 8, 2007.
21 Pursuant to the stipulations made by the two parties, Mortgages
22 Unlimited Corporation received a fine in the amount of \$10,000.00; with
23 \$3,000.00 of that fine TEMPORARILY SUSPENDED on the condition that
24 Respondent shall commit no further infractions of RSA Chapter 397-A and
25 shall respond to all Department inquiries in an expeditious manner for
a period of two years.

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II. STATUTORY AUTHORITY

1. RSA 397-A:13, VI ("Annual Report") provides that a licensee shall reply promptly in writing to any written inquiry from the Commissioner requesting a reply.
2. RSA 541-A:31 ("Availability of Adjudicative Proceeding; Contested Cases; Notice, Hearing and Record") provides that an agency may commence an adjudicative proceeding at any time with respect to a matter within the agency's jurisdiction.
3. New Hampshire Administrative Rule BAN 204.03 ("Commencement of an Adjudicative Proceeding") allows for the commencement of an adjudicative proceeding at any time as a result of the following actions by a licensee:
 - (1) Failure to file requisite reports within 30 days of applicable deadlines;
 - (2) Failure to pay fees or fines within 60 days of invoice date;
 - (3) Engaging in licensed activity with a suspended, revoked, or expired license;
 - (4) Failure to allow department personnel access, authorized by law, to the books, papers, records, files or similar documents for purposes of conducting examinations; or
 - (5) Any other failure to comply with the laws, rules or orders of the bank commissioner governing the licensee's activities.

III. ORDER

1. Pursuant to New Hampshire Administrative Rule BAN 204.03 (2)

("Commencement of an Adjudicative Proceeding"), Respondent failed to pay Adjudicative Order RE: Petitioner's January 3, 2008 Post Hearing Motion

1 a fine of \$10,000.00, \$3,000.00 of which was suspended, within 60 days
2 of the invoice date.

3 2. Pursuant to New Hampshire Administrative Rule BAN 204.03(5), Respondent
4 failed to comply with the August 8, 2007 Order which required
5 Respondent to pay a \$10,000 fine, \$3,000 of which was suspended.

6 3. Therefore, pursuant to BAN 204.03, the issue of lifting the temporary
7 suspension of the \$3,000.00 portion of the fine must go to public
8 hearing.

9 4. Furthermore, pursuant to BAN 204.03, the issue of Respondent's failure
10 to pay the \$7,000 as per the August 8, 2007 must also go to public
11 hearing.

12 5. Furthermore, pursuant to BAN 204.03, neither Presiding Officer Maryam
13 Torben Desfosses nor Commissioner Hildreth can find in favor of either
14 party's motion at this time.

15 6. Parties are therefore hereby instructed to schedule a hearing in this
16 matter no later than 30 days from receipt of this Order, unless
17 otherwise required by law.

18
19 **FINDING THE ABOVE ORDER TO BE IN THE PUBLIC INTEREST, IT IS SO ORDERED.**

20 This 7th day of April, 2008.

21
22 /s/
23 Peter Hildreth,
24 Bank Commissioner
25